

ALAN R. BRAYTON, ESQ., S.B. #73685
 DAVID R. DONADIO, ESQ., S.B. #154436
 FRANK J. ANDERS, ESQ., S.B. #227208
 BRAYTON♦PURCELL LLP
 Attorneys at Law
 222 Rush Landing Road
 P.O. Box 6169
 Novato, California 94948-6169
 (415) 898-1555
 (415) 898-1247 (Fax No.)

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

LOIS COLLINS, *et al.*,
 Plaintiffs,

vs.

GENERAL ELECTRIC COMPANY,
et al.,
 Defendants.

No. C 08-2704-EDL

JOINT MOTION AND STIPULATION TO
 STAY PROCEEDING OR, IN THE
 ALTERNATIVE, TO CONTINUE CASE
 MANAGEMENT DEADLINE AND
 CONFERENCE, AND TO EXTEND TIME;
~~[PROPOSED] ORDER TO STAY;~~
~~[PROPOSED ALTERNATIVE] ORDER~~
 TO CONTINUE

Pursuant to Civil L. R. 7-11 and 7-12, the following parties hereby stipulate to, and respectfully move the Court for, an Order extending time as set forth in the *Case Management Scheduling Order* filed May 29, 2008 (Document 2) , for the following good cause:

On June 30, 2008, Defendants NEWPORT NEWS SHIPBUILDING AND DRY DOCK CO. and GENERAL ELECTRIC COMPANY filed Notices to Tag Along Action regarding the pending Multidistrict Litigation (“MDL”) in the Eastern District of Pennsylvania, seeking among other things, to move Jurisdiction of this matter to that District (Documents 8 and 11, respectively.) Defendant GENERAL ELECTRIC COMPANY has faxed counsel copy of a cover letter, a copy of which was filed with the Court on June 30, 2008 (Document 12), showing that this notice was mailed to the Judicial Panel on Multidistrict Litigation (“JPML”) pursuant to

1 28 U.S.C. § 1407; said notice to the JPML from counsel being necessary to initiate the transfer
2 process.

3 On July 29, 1991, the JPML entered an order transferring all asbestos personal injury
4 cases pending in the federal courts to the United States District Court for the Eastern District of
5 Pennsylvania, for coordinated pretrial proceedings pursuant to 28 U.S.C. § 1407. (*In re Asbestos*
6 *Products Liability Litigation* (no. VI). MDL No. 875., 771 F.Supp. 415 (1991)). That order also
7 applies to “tag-along actions,” or actions involving common questions of fact filed after January
8 17, 1991. Such actions are to be transferred to the eastern District of Pennsylvania as part of
9 MDL 875, for coordinated pretrial proceedings.

10 The JPML has held that a district court has the authority to stay pending a transfer order.
11 *In re Asbestos Products Liability Litigation*, 170 F. Supp. 2d 1348, 1349 n.1 (J.P.M.L. 2001)
12 (“[T]hose courts concluding that such issues should be addressed by the transferee judge need
13 not rule on them, and the process of 1407 transfer in MDL-875 can continue without any
14 unnecessary interruption or delay.”)

15 The parties agree that it is likely that the JPML will transfer this matter to the Eastern
16 District of Pennsylvania. The Clerk of the JPML has not entered a *Conditional Transfer Order*
17 pursuant to JPML Rule 12(a) or filed an order to show cause why the action should not be
18 transferred, pursuant to JPML Rule 13(b). It is likely the dates set forth in the *Case Management*
19 *Scheduling Order* including the deadlines imposed by Federal Rules of Civil Procedure, Rule
20 26, will pass before the Clerk of the JPML acts.

21 In addition, Defendant SUN SHIP LLC has yet to file an Answer in this matter.

22 The parties make this Motion on the grounds that a stay of this action would (a) promote
23 judicial efficiency, (b) allow consistency in pretrial rulings, and (c) be most convenient to the
24 parties.

25 For the reasons above, the parties hereby STIPULATE to and respectfully request the
26 Court VACATE its *Case Management Scheduling Order* and that the Court issue an Order
27 STAYING this action pending the outcome of the MDL Panel’s decision on the merits of the
28 transfer.

1 In the alternative, the parties hereby STIPULATE to and respectfully request that this
2 Court vacate and continue the dates set forth in the *Case Management Scheduling Order* pending
3 the outcome of the JPML's decision on the merits of the transfer.

4 Dated: July 8, 2008

BRAYTON❖PURCELL LLP

5 /s/ David R. Donadio

6 By: _____
David R. Donadio
Attorneys for Plaintiffs

7 Dated: July 8, 2008

8 SEDGWICK, DETERT, MORAN &
ARNOLD, LLP

9 /s/ Derek S. Johnson

10 By: _____
Derek S. Johnson
Attorneys for Defendant
11 GENERAL ELECTRIC COMPANY

12 Dated: July 8, 2008

HAIGHT BROWN AND BONESTEEL LLP

14 /s/ Daniel J. Kelly

15 By: _____
Daniel J. Kelly
Attorneys for Defendant
16 Newport News Shipbuilding and
Dry Dock Company

17 [PROPOSED] ~~ORDER TO STAY~~

18 IT IS HEREBY ORDERED that the hearing date and deadlines specified in the *Case*
19 *Management Scheduling Order* dated May 29, 2008, are hereby VACATED and that this action
20 is STAYED pending the outcome of the JPML's decision on the merits of the transfer.
21
22

23 Dated: _____

24 _____
Elizabeth D. Laporte
United States Magistrate Judge

25 ///

26 ///

1 ~~[PROPOSED ALTERNATIVE]~~ ORDER TO CONTINUE

2 IT IS HEREBY ORDERED that the hearing date and deadlines specified in the *Case*
3 *Management Scheduling Order* dated May 29, 2008, are hereby VACATED.

4 IT IS FURTHER ORDERED that the following case management deadlines are
5 continued as follows:

6 1. The Case Management Conference is [set for a date after October 1, 2008 to
7 wit:] October 7, 2008; at 10:00 a.m. E.m., Courtroom E, 15th Floor,
8 450 Golden Gate Avenue, San Francisco, California.

9 2. Last day to meet and confer re initial disclosures, early settlement, ADR process
10 selection, and discovery plan is 21 days before the Case Management Conference in paragraph 1,
11 above.

12 3. Last day to file Joint ADR Certification with Stipulation to ADR process or
13 Notice of Need for ADR Phone Conference is 21 days before the Case Management Conference
14 in paragraph 1, above.

15 4. Last day to complete initial disclosures or state objection to Rule 26(f) Report,
16 file/serve Case Management Statement and file/serve Rule 26(f) Report is 5 court days before
17 the Case Management Conference in paragraph 1, above.

18 Dated: July 21, 2008

